(19)

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A. 637 of 2005

CORAM: Hon'ble Shri S.R. Nayak, CJ
& Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Appellants / Claimants :
1. Ram Singh, S/o Shri Pantan Singh, aged about 55 years.
2. Ghasin Bai, W/o Shri Ram Singh, aged about 52 years.
3. Ganesh Singh, S/o Shri Ram Singh, aged about 15 years.
minor through Guardian Ram Singh.

All resident of Village-Nandai Distt. Rajnandgaon (C.G.)

Versus

Respondents (Driver) : 1. Poshan Lal, S/o. Shri Than Singh Halba, aged about 25 years, R/o Village-Hadgahan, Thana-Arjunda, Tahsil - Gundadehi, Distt. - Durg (C.G.)

Owner : 2. Kapil Kumar Sahu, S/o. Shri Udala Ram Sahu, aged about 35 years, R/o Village & Post - Palari, Thana - Gurur, Distt. - Durg (C.G.)

: 3. United India Insurance Co. Ltd. Through Divl. Manager, Krishna Complex Kechahari Chow, Distt. Raipur (C.G.)

Trali Owner : 4. Mansha Ram, S/o Shri Chain Singh, R/o Village - Hadgahan, Thana - Arjunda, Tahsil - Gundadehi, Distt. - Durg (C.G.)

Shri Srikumar Agrawal, Sr. Advocate with Anand Shukla, Counsel for the appellant.

Shri Rajendra Tripathi, Advocate assisting Shri Prashant Mishra, Sr. Counsel for the Insurance-Company.

ORAL ORDER
(Passed on 17th January, 2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

1. The appellants are the parents and minor younger brother of the deceased. In this appeal, they seek more compensation.

2. What was urged by the learned counsel for the appellants is that the M.A.C.T. is not justified in taking the monthly income of the deceased at Rs.2,600/- only having opined that the deceased was earning daily income of Rs.100/- on the ground that the deceased could not have secured work all the days of the month. It was also contended that what is awarded towards loss of 'love and affection' is on lower side. It was further contended that the Motor Accidents Claims Tribunal (M.A.C.T.) is not justified in not awarding any compensation under the head 'loss of estate'.

3. Having heard the learned counsel for the parties, the only question that arises for our consideration is whether the compensation awarded by the M.A.C.T., in the facts and circumstances of the case and the evidence on record, could be regarded as a just and reasonable compensation within contemplation of Motor Vehicles Act, 1988 (for short 'the Act').

4. In our considered opinion, the M.A.C.T. having taken the daily income of the deceased at Rs.100/- ought to have computed the monthly income at Rs.3,000/-. The order passed by the M.A.C.T. that the deceased would have worked only for 26 days in a month shows perversity in reasoning. If we take the monthly income of the deceased at Rs.3,000/- and deduct 1/3rd of the same towards his personal expenses and apply the multiplier 11 having regard to the age of the mother of the deceased on the date of accident, the total 'loss

(27)

of dependency would come to Rs.2,64,000/- (2000 x 12 x 11). In addition, we award a sum of Rs.20,000/- towards loss of 'love and affection, Rs.20,000/- towards 'loss of estate' and Rs.5000/- towards funeral expenses. Thus, the appellant-claimants are entitled to total compensation of Rs.3,90,000/- with interest at 6% from the date of claim petition till payment. The impugned order shall stand modified in the above terms.

5. The appeal is allowed to the extent indicated above. The parties shall bear their respective costs in this appeal.

6. The Insurance-Company shall deposit the balance compensation money within six weeks from today and on such deposit being made, the M.A.C.T. shall disburse/invest the compensation money in the same proportions, if any, as specified by it in the impugned award.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb
Deshmukh
Judge

Anjani